IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.2760 OF 2004
WITH
WRIT PETITION NO.2761 OF 2004

Office Note, Office Memoranda of Coram appearance, Corut's orders or directions and Registrar's Orders:

Court's or Judge's Orders

Mr. M.S. Bhandari with Mrs. Suman Jain, for the Petitioners
Ms. Usha Nana Simhan with Mr. R.C. Dalal for Respondent No.2.
Mr. R.C. Master i/b. Shri S.S. Sarkar for Respondent No.1.

CORAM: F.I. REBELLO & S.P.KUKDAY, JJ.
DATE : 10th March, 2005

P.C.

. Rule. Heard forthwith. As the facts involved are similar both the petitions are being disposed by this common order.

2. Various grounds have been raised in the petitions. One of the contentions urged is considering the notification dated 16th October, 1996 which is the policy in the year 1997 to 1999 with which we are concerned the Appellate body is as set out under Rule 13(2). It is submitted that the order was not passed by the Appellate Authority as constituted, but on the contrary there were four Members.

3. On behalf of the Respondents learned Counsel has pointed out to the policy for the year 2000 to 2004 whereunder Rule 13(6) the

constitution of the Committee is four Members. However, the Coram is set out as Chairman and two Members.

4. Clearly considering that the case of the petitioner was covered by the Notification of 16th October, 1996 the Appellate body had to be constituted in terms of the said Notification. The Appeal, however, was heard by the Committee other than one as set out by the Notification. The impugned order is, therefore, liable to be set aside.

5. We, therefore, set aside the impugned order of the Appellate Authority and remand the matter for being heard by the Committee as constituted in terms of Rule 13(2) of the order dated 16th October, 1996. Pending the hearing and final disposal of the Appeal by the Committee the status quo as of today to be maintained. The Appeal to be disposed of within three months from today. All questions on merits are left open for consideration. Rule made absolute accordingly. No order as to costs.

Certified copy expedited.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)